

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

KENNETH J. PHELAN,

Petitioner,

v.

9:21-CV-0573
(GLS/DJS)

S. ECKERT,

Respondent.

APPEARANCES:

OF COUNSEL:

KENNETH J. PHELAN
Petitioner pro se
180 1st Street
Albany, NY 12210
223 Nott Terrance
Apt 2
Schenectady, NY 12307

GARY L. SHARPE
United States Senior District Judge

DECISION AND ORDER

Petitioner Kenneth J. Phelan has filed an application to proceed in forma pauperis (IFP) on appeal with the Second Circuit Court of Appeals, which has been transferred to this court for consideration. Dkt. No. 14, Attach. 1, IFP Application.¹

Under Rule 24 of the Federal Rules of Appellate Procedure,

a party to a district-court action who desires to appeal [IFP] must file a motion in the district court[and] must attach an affidavit that:

- (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs;
- (B) claims an entitlement to redress; and

¹ Phelan paid the statutory filing fee to properly commence this habeas corpus action. See Dkt. Entry of June 9, 2021.

(C) states the issues that the party intends to present on appeal.

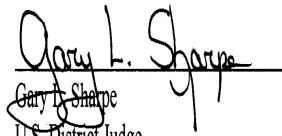
Fed. R. App. P. 24(a)(1). Based upon petitioner's motion papers, which include an affidavit, he has satisfied the conditions of Rule 24(a)(1) and is eligible to proceed on appeal IFP.

Accordingly, it is hereby

ORDERED that petitioner's application to appeal IFP, Dkt. No. 14, Attach, 1, is **GRANTED**; and it is further

ORDERED that the Clerk serve a copy of this Decision and Order upon the parties in accordance with the Local Rules of Practice.

April 29, 2022
Albany, New York



Gary L. Sharpe
U.S. District Judge